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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

FEB 11 2011

GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

DOCKETED BY

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IN THE MATTER OF THE APPLICATIONS OF
ARIZONA PUBLIC SERVICE COMPANY FOR
APPROVAL OF SCHOOLS AND
GOVERNMENT RENEWABLE PROGRAM
AND FOR APPROVAL OF ITS RENEWABLE
ENERGY STANDARD AND TARIFF
IMPLEMENTATION PLAN FOR 2011.

DOCKET NO. E-01345A-10-0166
DOCKET NO. E-01345A-10-0262

DECISION NO. 72174

ORDER AMENDING
DECISION NO. 72022

Special Open Meeting
January 24 and 28, 2011
Phoenix, Arizona

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. On December 10, 2010, the Arizona Corporation Commission ("Commission") issued Decision No. 72022 which approved Arizona Public Service Company's ("APS" or "Company") Schools and Government Renewable Energy Program and the Company's Renewable Energy Standard and Tariff ("REST") 2011 Implementation Plan, as modified therein.

2. On January 4, 2011, at its Staff Open Meeting, the Commission voted to reopen Decision No. 72022, pursuant to A.R.S. § 40-252, for the limited purpose of considering amending the Decision by reconsidering the following amendments discussed at the Commission's November 22 and 23, 2010, Open Meeting: Mayes Proposed Amendment No. 2; Pierce Proposed Amendment No. 1; Newman Proposed Amendment No. 6; Pierce Proposed Amendment No. 3; and Mayes Proposed Amendment No. 4. The motion passed by the Commission at the January 4, 2011, Staff Open Meeting stated that the reopening of Decision No. 72022 would include "any germane

1 modifications or conforming changes related to the matters addressed by the amendments, provided
2 that any potential amendment will not result in a change to the overall REST budget approved in
3 Decision No. 72022.” (Recording of Discussion at January 4, 2011, Staff Open Meeting.)

4 3. During the discussion at the January 4, 2011, Staff Open Meeting, the Commissioners
5 indicated that a hearing on this matter would be conducted at a Special Open Meeting to tentatively
6 be scheduled during the week of January 17, 2011. The Commissioners directed the Hearing
7 Division to issue a Procedural Order inviting interested parties to file comments prior to the hearing
8 and Special Open Meeting. The Commissioners also stated that additional verbal testimony would be
9 taken at the hearing, and that an Administrative Law Judge would preside over the taking of
10 additional testimony. Finally, the Commissioners indicated that at the conclusion of the hearing,
11 deliberations would commence to consider the amendments cited above including any germane
12 modifications or conforming changes related to the matters addressed by the amendments, in
13 accordance with the motion passed at the January 4, 2011, Staff Open Meeting.

14 4. On January 6, 2011, the Commission noticed this matter for hearing at a Special Open
15 Meeting to be conducted on January 18, 2011, at 9:30 a.m.

16 5. On January 7, 2011, a Procedural Order was issued encouraging all interested parties
17 wishing to comment to file comments, or a summary of comments, in writing, by no later than
18 January 13, 2011, in accordance with the limited reopening of Decision No. 72022 under A.R.S. §
19 40-252, as adopted at the January 4, 2011, Staff Open Meeting. The Procedural Order stated that
20 additional verbal testimony would be taken at the January 18, 2011 hearing, and that an
21 administrative law judge would preside over the taking of the additional testimony and that at the
22 conclusion of the hearing on January 18, 2011, the Commission would commence deliberations to
23 consider the amendments cited above, including any germane modifications or conforming changes
24 related to the matters addressed by the amendments, in accordance with the motion passed by the
25 Commission at the January 4, 2011, Staff Open Meeting.

26 6. On January 10, 2011, Commissioner Newman filed a letter requesting that
27 consideration of this matter be delayed.
28

1 7. On January 13, 2011, the Commission noticed the rescheduling of this matter for
2 hearing and consideration at a Special Open Meeting to be conducted on January 24, 2011, at 10:00
3 a.m.

4 8. On January 13, 2011, APS and the Solar Alliance filed Comments regarding the
5 limited reopening of Decision No. 72022 under A.R.S. § 40-252.

6 9. At the conclusion of the January 24, 2011 Open Meeting, the Open Meeting was
7 recessed to continue on January 28, 2011.

8 10. At the January 24 and 28, 2011, Special Open Meeting, the Commission conducted a
9 hearing and received additional information regarding this matter, and voted to amend Decision No.
10 72022 as described in Findings of Fact 11-15 below.

11 11. The Commission finds it is reasonable and in the public interest to amend Decision
12 No. 72022 to disallow APS' Powerful Communities Program and continue to authorize the APS'
13 Small Generator Standard Offer Program as follows:

14 ***Page 9, line 26***

15 *DELETE Finding of Fact No. 35 and INSERT Finding of Fact:*

16 *"Although APS included the Small Generator Standard Offer ("SGSO") Program*
17 *in its Feed-In Tariff Program, we do not agree that the SGSO Program is a true*
18 *feed-in tariff. A feed-in tariff is typically defined as "an obligation on an electric*
19 *distribution utility to purchase electricity from an eligible renewable energy seller*
20 *at specified prices for a specific duration." Since the winning projects selected*
under the SGSO Program are the lowest bidders in a very competitive Request for
Proposals bid, the SGSO fails to meet the feed-in tariff definition. We therefore do
not object to the funding of the APS SGSO Program."

21 ***Page 20, line 28***

22 *DELETE line 28 beginning with "except that we believe . . ." through Page 21,*
line 10.

23 ***Page 27, line 16***

24 *DELETE line 16 beginning with "except that we believe . . ." through line 25.*

25 ***Page 28, line 6***

26 *DELETE lines 6 through 10.*

27 12. The Commission finds it is reasonable and in the public interest to amend Decision
28 No. 72022 to modify APS' Schools and Government Program to add three parameters for each

1 project as follows:

2 ***Page 28, Line 22, INSERT the following:***

3 *"IT IS FURTHER ORDERED that the utility-ownership option of the APS*
 4 *Schools and Government Program is subject to the following three parameters*
 5 *for each project:*

6 1) *The school must be an economically challenged school.*
 7 *"Economically-challenged" is defined as a school with a per pupil available*
 8 *bonding capacity of \$8,000 or less and 60% or more of its students are*
 9 *participating in free or reduced lunch programs.*

10 2) *The area in which the school is located must be classified by the*
 11 *Census Bureau as rural.*

12 3) *The school will present APS with a proposal from a third-party*
 13 *solar installer not affiliated with APS."*

14 13. The Commission finds it is reasonable and in the public interest to amend Decision
 15 No. 72022 to approve APS' Rapid Reservation Program as follows:

16 ***Page 17, line 1***

17 *DELETE line 1 beginning with "However," through line 5.*

18 ***Page 19, line 4***

19 *DELETE line 4 beginning with "Although we appreciate . . ." through line 6.*

20 ***Page 26, line 17***

21 *DELETE Ordering Paragraph on lines 17 through 19 and INSERT the following:*

22 *"IT IS FURTHER ORDERED that the rapid reservation program is approved,*
 23 *as proposed."*

24 14. The Commission finds it is reasonable and in the public interest to amend Decision
 25 No. 72022 to modify APS' Marketing and Outreach budget as follows:

26 ***Page 17, line 21***

27 *INSERT new Finding of Fact:*

28 *"We will tentatively approve a "marketing and outreach" budget for APS of \$4.3*
million, but in light of the long waiting lines for residential and non-residential
distributed systems, we will require APS to spend no more than 69 percent of its
marketing and outreach budget before July 1, 2011. If funding for residential PV
systems is exhausted on or before June 30, 2011, APS shall reallocate seventy-five
percent of the funds remaining in its marketing and outreach budget to supplement

the \$2.5 million budget for its Rapid Reservation program. As stated above, any excess funds in the Rapid Reservation program that have not been committed by September 30, 2011 will revert to regular residential incentives for use on or after October 1, 2011."

Page 29, line 13

INSERT new Ordering Paragraph:

"IT IS FURTHER ORDERED that APS shall not spend more than 69 percent of its marketing and outreach budget before July 1, 2011. If funding for residential PV systems is exhausted on or before June 30, 2011, APS shall reallocate seventy-five percent of the funds remaining in its marketing and outreach budget to supplement the \$2.5 million budget for its Rapid Reservation program."

15. The Commission finds it is reasonable and in the public interest to amend Decision No. 72022 to modify APS' studies concerning the water-energy nexus as follows:

Page 22, line 1

DELETE Finding of Fact No. 95 (lines 1 - 24) and INSERT the following new Finding of Fact:

"During the November 22 and 23, 2010 Open Meeting, Eran Mahrer expressed his view on behalf of APS that studies of the water-energy nexus and of increasing the renewable energy standard in Arizona are "integral to the integrated resource planning" process. These two studies are more relevant to APS' integrated resource planning process than to its 2011 Renewable Implementation Plan. APS is welcome to address these issues when it files its integrated resource plan with the Commission later this year. If APS intends to seek cost-recovery for commissioning studies on these issues, it should first inform the Commission of the amount and the manner in which APS proposes to seek cost recovery."

Page 28, line 13

DELETE Ordering Paragraph at line 13- 15.

CONCLUSIONS OF LAW

1. APS is a public service corporation within the meaning of Article XV, Section 2, of the Arizona Constitution.

2. The Commission has jurisdiction over APS and over the subject matter of the issues addressed herein.

3. It is reasonable and in the public interest to amend Decision No. 72022, pursuant to the authority granted by A.R.S. § 40-252, in the manner described herein.


ORDER

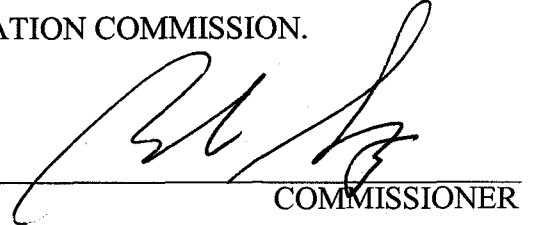
IT IS THEREFORE ORDERED that Decision No. 72022 is hereby amended as described hereinabove.

IT IS FURTHER ORDERED that in all other respects, Decision No. 72022 shall remain in full force and effect.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.


CHAIRMAN

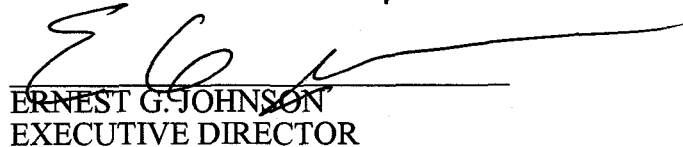

COMMISSIONER

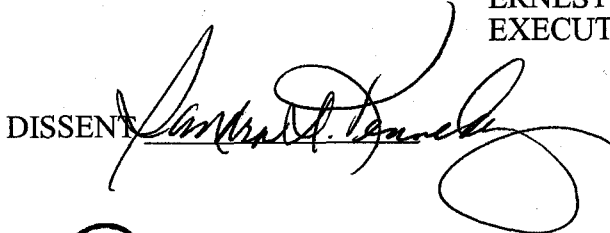

COMMISSIONER

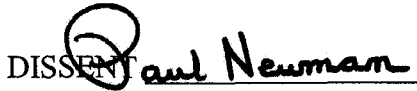

COMMISSIONER


COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON
Executive Director of the Arizona Corporation Commission,
have hereunto set my hand and caused the official seal of the
Commission to be affixed at the Capitol, in the City of Phoenix,
this 11th day of February, 2011.


ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT 

DISSENT  Paul Neuman

COMMISSIONERS
GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS



ARIZONA CORPORATION COMMISSION

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February 8, 2011

**Dissent letter on Re-Hearing on
APS REST 2011 Implementation Plan**

Dear Interested Parties:

This dissent letter is to explain my "No" vote on February 2, 2011 on the re-hearing of Decision No. 72022.

I did not support the 40-252 motion to reopen the APS 2011 REST Implementation plan. I did not believe it was a prudent or efficient use of our valuable and strained staff resources, especially since it had only been a mere five weeks from the original decision.

In my opinion, the issues that were the subject of the re-hearing could have been addressed as our staff suggested, during the review of the 2012 implementation plan, beginning in June 2011.

I am concerned for the ratepayers who are not able to take advantage of installing Photovoltaic systems onto their residences because they do not own their dwellings. I am speaking of the number of APS ratepayers who rent an apartment or lease a home. They too pay the rest surcharge. I am a little apprehensive that the Commission's REST policy may be moving in the direction of favoring those residential ratepayers who own their homes. My goal and preference is that we continue to maintain a balance in our energy policies to *benefit all the ratepayers*.

In the past, I have been supportive of moving REST funds from other programs to help fund the backlog in the residential program. However, funding the backlog at the Rapid Reservation reduced incentive level of \$1.00 causes me concern. I agree with the representatives of the solar industry who testified that the Rapid Reservation program might send confusing cost signals to the ratepayers. I believe that ratepayers should receive an equitable incentive so that they can benefit from what they have paid into the REST surcharge.

Decision No. **72174**

Page 2

I did not support the voluntary Rapid Reservation program that APS requested in its original application, and I supported the provision that removed the \$1.00 Rapid Reservation incentive. This allowed me to vote for the original decision in December, on behalf of the ratepayers.

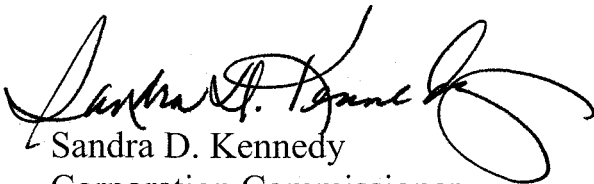
I know throughout the proceedings that we heard comments regarding how Salt River Project ("SRP") handles renewable energy programs and surcharges. I cannot tell you how many times I have been contacted or had conversations with SRP customers, who have expressed concerns that SRP does not offer comparable programs or incentives as the utility companies that we regulate. Therefore, comparing APS or the other utility companies we regulate to SRP is somewhat like comparing apples to oranges.

Finally, I would be remiss if I did not address the issue of the Commission's authority when it comes to A.R.S. §§ 40-252 and -253. It is no secret that I did not support the 40-252 motion. My opposition was based on policy direction and the burden placed on our limited staff resources. I believed it would be a better use of our staff resources to address the issues in the 2012 REST plan filings.

Having said that, I do believe that our use of the 40-252 is well within our authority. While I believe and will always support our authority, I hope we use that authority in a judicious and equitable manner.

No one has a monopoly in protecting the ratepayers; while we may disagree on energy policy; I know we all take very seriously the impact that any action or policy we take here at the Commission will have on the ratepayers.

However, due to the amendments adopted, and for the reasons I have already stated, I could not support the Commission's actions in this matter and voted no.


Sandra D. Kennedy
Corporation Commissioner

1 Commissioner Newman Dissent:

2 I am writing this dissent for three reasons:

3
4 (1) The 2011 APS REST was thoroughly vetted during the proceedings in November
5 and December 2010 so that opening this plan is not necessary;

6 (2) The \$1/watt Rapid Reservation program will add too much uncertainty to an
7 already-difficult market; and

8 (3) Studying the energy-water nexus and the effect of raising the REST now – not
9 one year from now -- makes sense.

10 The APS 2011 REST Plan Was Already Considered

11 As parties, public comments and staff stated at the January 24th hearing, this matter was
12 already thoroughly reviewed and considered. There will be a new REST plan filed in 5 months, and
13 Chairman Pierce and the other Commissioners can amend the plan as they see fit. I don't believe
14 there was a good reason to re-open APS' 2011 REST.

15 The \$1/watt Rapid Reservation Program

16 My amendment to disallow the \$1/watt Rapid Reservation was based on research that \$1/watt
17 is simply too low to allow a reputable business to sustain itself on such a low rebate. I believe that
18 we must make renewable energy as cost-effective as possible, but not at the expense of shoddy work
19 or an unstable market.

20 Studying the Energy-Water Nexus and Increasing Arizona's REST

21 I appreciate Chairman Pierce's amendment to study the energy-water nexus and increasing
22 the REST in the Integrated Resource Plans (IRP) that will be filed this summer, but why wait? How
23 are Arizona ratepayers served by delaying study on these critical issues for another year? Arizonans
24 send \$1.5 billion/year out of state to buy natural gas for electricity production (and another \$800
25 million for heating), and two-thirds of the coal burned in our power plants comes from out of state.
Power plants use a lot of water, and understanding the trade-offs between high-water-using
generators and low-water-using generators will promote good public policy.